

**MINUTES OF THE
GREENSBORO ZONING COMMISSION
NOVEMBER 8, 2004**

REGULAR MEETING

A regular meeting of the Greensboro Zoning Commission was held on Monday, November 8, 2004, at 3:40 p.m., in the City Council Chambers, Second Floor, Melvin Municipal Office Building. Members present were Chair Gary Wolf, Tony Collins, Paul Gilmer, Portia Shipman, Bill Schneider, Peter Kauber, Brian Byrd, J.D. Haynes and Susan Spangler. Dick Hails, Planning Director, and Bill Ruska, Zoning Administrator represented the Planning Department. Also present were Blair Carr, Esq., City Attorney's Office, and Carrie Reeves, Greensboro Department of Transportation (GDOT).

Chair Wolf welcomed everyone to the Zoning Commission regular monthly meeting. He explained the procedures of the meeting.

APPROVAL OF MINUTES OF OCTOBER 11, 2004 REGULAR MEETING.

Mr. Gilmer moved approval of the minutes of the October 11, 2004 meeting as written, seconded by Ms. Shipman. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Shipman, Schneider, Kauber, Byrd, Haynes, Spangler. Nays: None.)

PUBLIC HEARINGS:

A. AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING PUBLIC AND INSTITUTIONAL TO CITY ZONING PUBLIC AND INSTITUTIONAL – FOR A PORTION OF THE PROPERTY LOCATED ON THE WEST SIDE AND NORTH OF THE TERMINUS OF FRANCES DAILY COURT BETWEEN MARSHALL SMITH ROAD AND PLEASANT RIDGE ROAD (8818 WEST MARKET STREET AND 1203 FRANCES DAILY COURT) – FOR THE PLANNING DEPARTMENT. (FAVORABLE RECOMMENDATION)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

There being no speakers, either in support or opposition, the public hearing was closed.

Mr. Hails said the Generalized Future Land Use Map (GFLUM) on this property designated it as both Industrial/Corporate Park and Mixed Use Corporate Park. Staff felt that the current County zoning was appropriate as City zoning on the site. Therefore, staff recommended approval of the request.

Mr. Gilmer moved to introduce the ordinance, seconded by Mr. Kauber. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Shipman, Schneider, Kauber, Byrd, Haynes, Spangler. Nays: None.)

B. AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING LIGHT INDUSTRIAL TO CITY ZONING LIGHT INDUSTRIAL – FOR A PORTION OF THE PROPERTY LOCATED ON THE EAST SIDE OF WARD ROAD SOUTH OF BURLINGTON ROAD – FOR PETER A. LANE. (FAVORABLE RECOMMENDATION)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Peter Lane, 2704 Quaker Landing, said they purchased this property with the understanding that it if stayed in the County and did not have City sewer, that they could put in a low-pressure septic system. The site engineer thought since the City limits and City sewer was within about 100 yards of the property, they should petition to annex it and hook onto the City's sewer system.

There being no one else to speak to this request, either favorably or in opposition, the public hearing was closed.

Mr. Hails said the Comprehensive Plan designated this site as Mixed Use Corporate Park in a potential Activity Center. Both represented very long term land use goals for this area. For example, the Mixed Use Corporate Park area here extended for several miles to the south, actually crossing I-85/I-40 in the vicinity of McConnell Road. The general thinking was that development very well might occur, starting down at the Interstate and work it's way north towards this direction over the next 20 years or so. Likewise, an Activity Center, including the construction of the Guilford Technical Community College and the KMart Distribution Center on the north side of Burlington Road. He noted that staff was comfortable with this, viewing it as an interim use towards the possible high density Activity Center and Mixed Use Corporate Park uses that could grow into this area later. With that in mind, staff recommended approval of the request.

Mr. Gilmer moved to introduce the ordinance, seconded by Ms. Shipman. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Shipman, Schneider, Kauber, Byrd, Haynes, Spangler. Nays: None.)

C. AN ORDINANCE REZONING FROM RS-9 RESIDENTIAL SINGLE FAMILY TO RS-7 RESIDENTIAL SINGLE FAMILY – FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTH SIDE OF BRANDERWOOD DRIVE SOUTH OF MELOINE LANE AND WEST OF FREEMAN MILL ROAD – FOR AMY A. HARMAN. (DENIED)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

There was no one present to speak in favor of the request.

Speaking in opposition to the request was Joanna Phipps, 2932 Branderwood Drive. Her opposition was regarding rental housing and related crime and maintenance issues. She also felt that there was not enough room to build another house on the property. She presented a petition containing approximately 12 signatures of nearby residents in opposition.

Also speaking in opposition was Clayton Keck, 2217 Meloine Lane. He was opposed to the rezoning because the rental house would be right at his back yard.

Mr. Ruska and Mr. Hails noted that the applicant had been talking about doing a flag lot, which they could do under existing zoning. However, the applicant preferred to do a conventional lot, which was the reason why they were seeking a rezoning because of the difference in lot width between RS-9 and RS-7.

Chair Wolf said as to whether or not this would be a rental house was an irrelevant issue to the Commission. He thought they were talking about use, not talking about whether it would be rental versus owner-occupied. He stated that what the Planning Department was telling the Commission was that if this were turned down for the RS-7, because of its shape and square footage, they would have the ability to subdivide it, put a flag lot driveway coming down the side of the lot next to the car shop and create a building lot in the back, which would put a house further back on the lot, closer to Mr. Keck than what they want to do if this request were approved. If this request were approved, they would no longer be able to subdivide and have the flag lot.

Mr. Ruska said if this rezoning were approved and they built a conventional house, they would not have enough room to do a flag lot. They would also have to meet all the setback requirements prescribed by the ordinance.

Ms. Shipman said she would not support this rezoning, especially since the applicant was not present to answer questions.

Mr. Gilmer moved to introduce the ordinance, seconded by Mr. Byrd.

Mr. Hails said RS-9 was the current zoning and RS-7 was the requested zoning and both were compatible with the GFLUM of the Comp Plan. Staff, as a rule, did not support dropping a rezoning in the midst of an area that had a single zoning classification already in it. However, the sense was that the development that could result from this rezoning would be more in keeping with the character of the existing neighborhood than what was currently permitted with the existing zoning. So as such, staff supported the rezoning and also noted that if other rezonings of this type along Branderwood were brought forward, they would likely support those as well.

Mr. Kauber said he agreed with Ms. Shipman and he was reluctant to approve this, given that the applicant didn't even bother to show up. On the other hand, he was concerned that they were going to do something and the something they would do would be worse than if the Commission approved this. He was reluctantly in favor of this request.

Mr. Gilmer said he would support the request also because he thought what the neighbors would get, they would not be satisfied with and that would be a house sitting in the back portion of the lot. He would support the request.

A majority of the other Commissioners also voiced their concern about this request, although concerned about the flag lot possibility. They also felt the applicant should have attended to relate to the Commission her plans for the rezoning. Since there were opponents present, they felt the greater weight of the evidence was in support of the opponents. Therefore, they said they would vote to deny the rezoning.

Chair Wolf said, historically, he had voted in favor of getting rid of a flag lot, but he was going to

respect the neighbors since the applicant did not show up.

Chair Wolf called for a vote on the motion on the table. The Commission voted 1-8 in favor of the motion, thereby denying the request. (Ayes: Gilmer. Nays: Wolf, Collins, Shipman, Schneider, Kauber, Byrd, Haynes, Spangler.)

Counsel Carr said this had happened twice in consecutive meetings where an applicant had failed to show up, and she had seen some consternation on the Board as to whether it needed to be continued. Her concern from a legal perspective was they had found out that the applicant was not present after the public hearing had been opened. She suggested that they inquire before Mr. Ruska spoke on each individual case if the applicant were present and entertain a motion to continue at that point in time.

D. AN ORDINANCE REZONING FROM RM-26 RESIDENTIAL MULTIFAMILY TO CONDITIONAL DISTRICT – PLANNED UNIT DEVELOPMENT – INFILL WITH THE FOLLOWING CONDITIONS: 1) USES: ALL USES PERMITTED IN RM-26 PLUS INDOOR AMUSEMENTS AND RECREATION; COMMERCIAL BALLROOM AND CONFERENCE AND SPECIAL EVENT FACILITIES; HAIR SALON AND SIMILAR PERSONAL SERVICE USES; CONVENIENCE MARKET AND SIMILAR RETAIL USES NOT TO EXCEED 6,500 SQUARE FEET; RESTAURANTS NOT TO EXCEED 5,300 SQUARE FEET; AND OFFICE USES NOT TO EXCEED 1,800 SQUARE FEET; 2) PROPERTY TO BE DEVELOPED SUBSTANTIALLY IN ACCORDANCE WITH THE PDI REZONING SKETCH PLAN SUBMITTED WITH THIS APPLICATION WITH NO MORE THAN 178 RESIDENTIAL CONDOMINIUM UNITS - FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTH SIDE OF WEST MEADOWVIEW ROAD AND SOUTH SIDE OF VILLAGE GREEN DRIVE BETWEEN RANDLEMAN ROAD AND SOABAR STREET – FOR HERITAGE HOUSE 310, LLC. (APPROVED)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Marc Isaacson, Esq., 101 West Friendly Avenue, handed up documents to the Commission for its information. He spoke in support of the request and described some of the history and proposed uses of the site.

There being no one else to speak either in favor of or in opposition to this request, the public hearing was closed.

Mr. Hails said the GFLUM on this site showed Industrial/Corporate Park. However, guidelines on that show that when there was pre-existing residential uses in these areas, they could be viewed as compatible, particularly if there were efforts to buffer the uses. Staff would note that the sketch plan indicated an eight-foot street planting yard being added to the north and a five-foot planting yard being added to the west side. Staff thought those were good additions. Additionally, the Comp Plan also called for reinvestment in certain designated corridors of which Randleman Road was one. The property had been sitting vacant and staff recommended approval of the request.

Ms. Shipman moved the ordinance. Mr. Kauber seconded the motion. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Shipman, Schneider, Kauber, Byrd, Haynes,

Spangler. Nays: None.)

Mr. Hails left the meeting at 4:27 p.m.

E. AN ORDINANCE REZONING FROM CONDITIONAL DISTRICT – LIMITED BUSINESS WITH THE FOLLOWING CONDITIONS: 1) USES WILL BE LIMITED TO ANTIQUES OFFICES AND BUSINESS AND ARCHITECTURAL OFFICES AND BUSINESSES, ALL OF WHICH MAY CONDUCT INCIDENTAL AND ACCESSORY RETAIL OF FURNITURE, FURNISHINGS AND ACCESSORIES, AND ONE RESIDENTIAL DWELLING UNIT; 2) THE EXISTING STRUCTURE WILL BE RETAINED; TO CONDITIONAL DISTRICT – GENERAL OFFICE MODERATE INTENSITY WITH THE FOLLOWING CONDITIONS: 1) USES LIMITED TO PROFESSIONAL OFFICES AND ONE RESIDENTIAL DWELLING UNIT; 2) THE EXISTING STRUCTURE WILL BE RETAINED - FOR A PORTION OF THE PROPERTY LOCATED ON THE WEST SIDE OF NORTH CHURCH STREET BETWEEN LEFTWICH STREET AND EAST FISHER AVENUE – FOR BRIAR PATCH HOLDINGS, LLC. (FAVORABLE RECOMMENDATION)

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and noted issues in the staff report.

Chair Wolf opened the public hearing.

Jay DeVaney, 701 Green Valley Road, spoke in favor of the request and noted some of the history on previous zoning and use of the site. He noted low traffic generation, conformity with Comp Plan and buffer to adjoining residential uses.

There was no one else to speak either in favor of or in opposition to this request, so the public hearing was closed.

Mr. Ruska noted some zoning history of the site, general Comp Plan (fuzzy line) consistency with the request, sensitivity to the historic district and a recent favorable recommendation by the Historic Preservation Commission. He said the Planning Department recommended that this request be approved.

Mr. Gilmer moved the ordinance. Mr. Kauber seconded the motion. The Commission voted 9-0 in favor of the motion. (Ayes: Wolf, Collins, Gilmer, Shipman, Schneider, Kauber, Byrd, Haynes, Spangler. Nays: None.)

ITEMS FROM THE PLANNING DEPARTMENT:

None.

ITEMS FROM THE ZONING COMMISSION MEMBERS:

There was then a general discussion among the Commission members as to the joint meeting format and the possibility of the meetings taking much longer when there was more than one item for discussion.

Mr. Ruska said he did want to inform the Commission that they would probably have a January joint meeting with the Planning Board and this next time around it would be the third Wednesday of January at the Planning Board's regularly scheduled meeting. He knew they had at least one item that was going to require a GFLUM amendment and it was an original zoning of property.

Chair Wolf said it was obvious from today's joint meeting that the Comp Plan map amendment consideration was going to take a lot more time, but he felt that they should not limit questions or discussion more than at present.

Counsel Carr said from a procedural standpoint she understood the efficiency of either way. She was concerned, this being the first joint meeting, of the blending of issues. She was concerned about making sure each Board followed the standard that applied to their decision-making. She said that it seemed like the Zoning Commission members were talking about larger issues but brought it back to the test that they were to apply.

The Commission then had a general discussion on cases similar to Item C on today's agenda, about continuing or disapproving cases, especially when the applicant was not present.

Counsel Carr said that she had suggested that they identify the absence or presence of the applicants prior to the opening of any testimony or any evidence and any presentation on the matter. She would feel more comfortable if this Commission made a decision about going forward at that point in time, prior to any presentation being made.

Mr. Ruska said he thought that they could look at that on a case-by-case basis.

Counsel Carr said she was suggesting a motion to continue as the best way to deal with this matter.

Mr. Ruska said staff was frequently asked the question of, "Do I need to attend the public hearing?" Staff always said, "Absolutely, you need to be present."

* * * * *

There being no further business before the Commission, the meeting was adjourned at 4:55 p.m.

Respectfully submitted,

Richard W. Hails, AICP
Planning Director

RWH/ts.ps